



European Union (Withdrawal) Act 2018

2018 CHAPTER 16

General and final provision

20 Interpretation

(1) In this Act—

“Charter of Fundamental Rights” means the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg on 12 December 2007;

“devolved authority” means—

- (a) the Scottish Ministers,
- (b) the Welsh Ministers, or
- (c) a Northern Ireland department;

“domestic law” means—

- (a) in section 3, the law of England and Wales, Scotland and Northern Ireland, and
- (b) in any other case, the law of England and Wales, Scotland or Northern Ireland;

“the EEA” means the European Economic Area;

“enactment” means an enactment whenever passed or made and includes—

- (a) an enactment contained in any Order in Council, order, rules, regulations, scheme, warrant, byelaw or other instrument made under an Act,
- (b) an enactment contained in any Order in Council made in exercise of Her Majesty’s Prerogative,
- (c) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament,
- (d) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales,
- (e) an enactment contained in, or in an instrument made under, Northern Ireland legislation,

(f) an enactment contained in any instrument made by a member of the Scottish Government, the Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Government, a Northern Ireland Minister, the First Minister in Northern Ireland, the deputy First Minister in Northern Ireland or a Northern Ireland department in exercise of prerogative or other executive functions of Her Majesty which are exercisable by such a person on behalf of Her Majesty,

(g) an enactment contained in, or in an instrument made under, a Measure of the Church Assembly or of the General Synod of the Church of England, and

(h) except in sections 2 and 7 or where there is otherwise a contrary intention, any retained direct EU legislation;

“EU decision” means—

(a) a decision within the meaning of Article 288 of the Treaty on the Functioning of the European Union, or

(b) a decision under former Article 34(2)(c) of the Treaty on European Union;

“EU directive” means a directive within the meaning of Article 288 of the Treaty on the Functioning of the European Union;

“EU entity” means an EU institution or any office, body or agency of the EU;

“EU reference” means—

(a) any reference to the EU, an EU entity or a member State,

(b) any reference to an EU directive or any other EU law, or

(c) any other reference which relates to the EU;

“EU regulation” means a regulation within the meaning of Article 288 of the Treaty on the Functioning of the European Union;

“EU tertiary legislation” means—

(a) any provision made under—

(i) an EU regulation,

(ii) a decision within the meaning of Article 288 of the Treaty on the Functioning of the European Union, or

(iii) an EU directive,

by virtue of Article 290 or 291(2) of the Treaty on the Functioning of the European Union or former Article 202 of the Treaty establishing the European Community, or

(b) any measure adopted in accordance with former Article 34(2)(c) of the Treaty on European Union to implement decisions under former Article 34(2)(c),

but does not include any such provision or measure which is an EU directive;

“exempt EU instrument” means anything which is an exempt EU instrument by virtue of Schedule 6;

“exit day” means 29 March 2019 at 11.00 p.m. (and see subsections (2) to (5));

“member State” (except in the definitions of “direct EU legislation” and “EU reference”) does not include the United Kingdom;

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 and also includes the Commissioners for Her Majesty’s Revenue and Customs;

“modify” includes amend, repeal or revoke (and related expressions are to be read accordingly);

“Northern Ireland devolved authority” means the First Minister and deputy First Minister in Northern Ireland acting jointly, a Northern Ireland Minister or a Northern Ireland department;

“primary legislation” means—

- (a) an Act of Parliament,
- (b) an Act of the Scottish Parliament,
- (c) a Measure or Act of the National Assembly for Wales, or
- (d) Northern Ireland legislation;

“public authority” means a public authority within the meaning of section 6 of the Human Rights Act 1998;

“relevant criminal offence” means an offence for which an individual who has reached the age of 18 (or, in relation to Scotland or Northern Ireland, 21) is capable of being sentenced to imprisonment for a term of more than 2 years (ignoring any enactment prohibiting or restricting the imprisonment of individuals who have no previous convictions);

“retained direct EU legislation” means any direct EU legislation which forms part of domestic law by virtue of section 3 (as modified by or under this Act or by other domestic law from time to time, and including any instruments made under it on or after exit day);

“retrospective provision”, in relation to provision made by regulations, means provision taking effect from a date earlier than the date on which the regulations are made;

“subordinate legislation” means—

- (a) any Order in Council, order, rules, regulations, scheme, warrant, byelaw or other instrument made under any Act, or
- (b) any instrument made under an Act of the Scottish Parliament, Northern Ireland legislation or a Measure or Act of the National Assembly for Wales,

and (except in section 7 or Schedule 2 or where there is a contrary intention) includes any Order in Council, order, rules, regulations, scheme, warrant, byelaw or other instrument made on or after exit day under any retained direct EU legislation;

“tribunal” means any tribunal in which legal proceedings may be brought;

“Wales” and “Welsh zone” have the same meaning as in the Government of Wales Act 2006 (see section 158 of that Act);

“withdrawal agreement” means an agreement (whether or not ratified) between the United Kingdom and the EU under Article 50(2) of the Treaty on European Union which sets out the arrangements for the United Kingdom’s withdrawal from the EU.

- (2) In this Act references to before, after or on exit day, or to beginning with exit day, are to be read as references to before, after or at 11.00 p.m. on 29 March 2019 or (as the case may be) to beginning with 11.00 p.m. on that day.

- (3) Subsection (4) applies if the day or time on or at which the Treaties are to cease to apply to the United Kingdom in accordance with Article 50(3) of the Treaty on European Union is different from that specified in the definition of “exit day” in subsection (1).
- (4) A Minister of the Crown may by regulations—
 - (a) amend the definition of “exit day” in subsection (1) to ensure that the day and time specified in the definition are the day and time that the Treaties are to cease to apply to the United Kingdom, and
 - (b) amend subsection (2) in consequence of any such amendment.
- (5) In subsections (3) and (4) “the Treaties” means the Treaty on European Union and the Treaty on the Functioning of the European Union.
- (6) In this Act references to anything which continues to be domestic law by virtue of section 2 include references to anything to which subsection (1) of that section applies which continues to be domestic law on or after exit day (whether or not it would have done so irrespective of that section).
- (7) In this Act references to anything which is retained EU law by virtue of section 4 include references to any modifications, made by or under this Act or by other domestic law from time to time, of the rights, powers, liabilities, obligations, restrictions, remedies or procedures concerned.
- (8) References in this Act (however expressed) to a public authority in the United Kingdom include references to a public authority in any part of the United Kingdom.
- (9) References in this Act to former Article 34(2)(c) of the Treaty on European Union are references to that Article as it had effect at any time before the coming into force of the Treaty of Lisbon.
- (10) Any other reference in this Act to—
 - (a) an Article of the Treaty on European Union or the Treaty on the Functioning of the European Union, or
 - (b) Article 10 of Title VII of Protocol 36 to those treaties,includes a reference to that Article as applied by Article 106a of the Euratom Treaty.